

WISCONSIN LEGISLATIVE COUNCIL STAFF

RULES CLEARINGHOUSE

Ronald Sklansky
Director
(608) 266-1946

Richard Sweet
Assistant Director
(608) 266-2982



David J. Stute, Director
Legislative Council Staff
(608) 266-1304

One E. Main St., Ste. 401
P.O. Box 2536
Madison, WI 53701-2536
FAX: (608) 266-3830

CLEARINGHOUSE RULE 95-086

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

2. Form, Style and Placement in Administrative Code

- a. In SECTION 2, “RECORD KEEPING” should not be shown. [See s. 1.05 (3) (d), Manual.]
- b. In several provisions of the rule, “shall” should replace “must.” For example, see s. Trans 136.03 (1) (a) (intro.).
- c. In s. Trans 136.03, the title should not be underlined.
- d. Section Trans 138.04 (1) (b) 3. should end with a semicolon as in the original text of the subdivision.
- e. In s. Trans 139.04 (6) (a) 2., “~~to be~~” should be deleted because “to be” is not in the original text.
- f. Section Trans 142.07 (5) (d) 3. c. should be written in the active voice. “An” should replace “There shall be an” and “shall be” should be inserted after “license.”
- g. The title for ch. Trans 154 should include the text “CHAPTER TRANS 154” before “VEHICLE ODOMETER DISCLOSURE REQUIREMENTS”.
- h. In s. Trans 154.01, “Stats.” should follow the statutory references.
- i. In s. Trans. 154.04 (2) (a) 3., the word “NOT” should not be capitalized. This comment also applies to ss. Trans 154.04 (2) (a) 4., 154.07 (2) (b) 3. and 4. and 154.08 (1) (a) 3. and 4.

j. In s. Trans 154.09 (2), “(sixty-two hundredths)” should be deleted. Also, a more precise cite than “described above” should be used. Also see sub. (3) (c).

k. In s. Trans 154.10, “(1)” should be deleted since there is no sub. (2).

l. In s. Trans 154.11 (2) (e), the use of the word “him” is not gender-neutral and should be replaced with “the person exercising the power of attorney.” [See s. 1.01 (3), Manual.]

m. In s. Trans 154.13 (2), par. (h) is not an occurrence. Paragraph (h) could be combined with par. (a). Alternatively, sub. (2) (intro.) could be renumbered as par. (2) (a) and par. (h) could be renumbered as par. (b).

4. Adequacy of References to Related Statutes, Rules and Forms

a. In s. Trans. 138.04 (1) (b) 3., the cite to s. Trans 154.08 (2) is incorrect. It appears the correct cite is s. Trans 154.08 (1).

b. In s. Trans 154.01, the reference to the “Truth in Mileage Act” could be deleted since the cited sections were repealed in July 1994 [P.L. 103-272]. Should reference be made to 49 U.S.C. ss. 32701 to 32711?

c. In s. Trans 154.02 (intro.), the cite to s. 218.01, Stats., would be more specific if it were to s. 218.01 (1), Stats.

d. In s. Trans 154.13 (1) (e), the cite to s. 342.15 (2) (b), Stats., is incorrect. The correct cite is s. 342.15 (2), Stats.

5. Clarity, Grammar, Punctuation and Use of Plain Language

a. In s. Trans 136.03 (1) (b), the phrase “who do not maintain electronic data processing record keeping systems” would be clearer as “who do not maintain their records in an electronic data processing record keeping system.” This comment also applies to ss. Trans 138.04 (1) (f) 2. and 142.07 (5) (d) 2.

b. In s. Trans 136.03 (1) (c) 2., “shall be” should replace “is.” This comment also applies to ss. Trans 138.04 (1) (f) 3. b. and 142.07 (5) (d) 3. b.

c. In s. Trans 138.04 (1) (g), “Such” could be deleted since the sentence directs the reader to the paragraph where the information is specified. In general, the word “such” should be deleted throughout the rule or replaced by an article such as “the.” [See s. 1.01 (9) (c), Manual.]

Also in that paragraph, “conforming powers of attorney” should be “conforming power of attorney forms.” This change should be made throughout the rule.

d. In s. Trans 142.07 (5) (d) 1. c., “New or used” would be clearer as “Whether the vehicle is new or used.”

e. In s. Trans 154.02 (1), “assigning ownership” should be before “assign ownership” to be consistent with s. Trans 154.02 (8).

f. In s. Trans 154.02 (2), both uses of “which” should be deleted because “conforming” is an adjective and the text defines a noun.

g. In s. Trans 154.02 (7), “any” should be changed to “a.”

Also in that subsection, the commas around “required by federal and Wisconsin law” could be deleted.

h. In s. Trans 154.02 (8), “when” could be changed to “if.”

Also in that subsection, the comma after “resale” could be deleted.

i. In s. Trans 154.03 (1), “or the agent of the owner” should be placed after “certificate of title.” Also, the commas around “or the agent of the owner” could be deleted.

j. In s. Trans 154.03 (2) (a) and throughout the rule, “Wisconsin dealer” should be “dealer licensed in Wisconsin.” Alternatively, “Wisconsin dealer” could be defined in s. Trans 154.02 as a dealer licensed in Wisconsin and “Wisconsin dealer” could be used throughout the chapter.

k. In s. Trans 154.03 (3) (c) 2., “form” should be “statement.” This change should be made throughout the rule for consistency.

l. In s. Trans 154.04 (1), “the mileage” would be clearer as “the vehicle’s mileage.” This comment applies throughout the rule.

m. In s. Trans 154.04 (2) (a), “but not tenths of miles” would be clearer as, “not including tenths of miles.” This comment also applies to ss. Trans 154.07 (2) (b), 154.08 (1) (a) and 154.11 (3) (a).

n. Section Trans 154.04 (2) (a) 1. would be consistent with subds. 2. to 4. if the wording were “If, to the best of the transferor’s knowledge, the odometer reading reflects the actual mileage, the transferor shall include a certification to that effect.” This comment also applies to ss. Trans 154.07 (2) (b) 1., 154.08 (1) (a) 1. and 154.11 (3) (a) 1.

o. In s. Trans 154.04 (2) (a) 3. and 4., it is unclear what the rule contemplates would be an appropriate warning notice. What a warning notice is and how a transferor should provide warning should be included either in the parts of the rule that require a warning notice or in a separate part which could be cross-referenced throughout the rule. This comment also applies to ss. Trans 154.07 (2) (b) 3. and 4., 154.08 (1) (a) 3. and 4. and 154.11 (3) (a) 3.

p. The last sentence of s. Trans 154.09 (1) should read: “No person may remove the notice.”

q. Section Trans 154.05 (8) should either be incorporated into s. Trans 154.05 (4) and any other references in the chapter to vehicles with a gross vehicle weight rating of more than 16,000 pounds or should be included in the definitions in s. Trans 154.02.

r. In s. Trans 154.07 (1), “ownership” should be “possession” because a lessor does not transfer ownership to a lessee. This comment also applies to ss. Trans 154.07 (2) and 154.12 (2).

Also in that subsection, the last sentence should end with “to the lessor” for clarity.

s. In s. Trans 154.08 (5), “the odometer disclosure” should be “the odometer disclosure statement” for clarity. This change should be made throughout the rule.

t. In s. Trans 154.09 (3) (a), “within 30 days of the date of the malfunction” would be clearer as “within 30 days after the date the odometer began to malfunction.”

u. In s. Trans 154.09 (3) (b), it is unclear how a reasonably accurate determination could be made regarding how many miles the vehicle traveled between the malfunction and the repair or replacement.

v. In s. Trans 154.10, “if the person assuming ownership does not have reason to believe that the odometer reading is not the actual mileage” would be clearer as, “unless the person assuming ownership has reason to believe that the odometer reading is not the actual mileage.”

Also in that section, what should the person assuming ownership do if he or she has reason to believe the odometer reading is not the actual reading?

w. In s. Trans 154.11 (1), perhaps “secured party” should be defined or what it may include should be specified whenever it is used in the chapter. Alternatively, the phrase could be defined in s. Trans 154.02.

x. In s. Trans 154.11 (2) (d), are there civil liability risks that should be mentioned?

y. In s. Trans 154.11 (2) (e), it is unclear why the odometer disclosure made on the certificate of title pursuant to the power of attorney must be “greater than that previously stated” on the certificate of title. This comment also applies to s. Trans 154.11 (4) (b).

z. In s. Trans 154.11 (3) (intro), “, including the transferor’s printed name,” would be clearer as “and include the transferor’s printed name.”

aa. In s. Trans 154.11 (5) (b), is the “transferor named as the transferor’s agent” supposed to be the dealer named as the agent?

ab. In s. Trans 154.12 (1), “all of the information and data, including a description of the motor vehicle, as specified in sub. (3) (c)” is unclear. If all the information in sub. (3) (c) is to be included, “including a description of the motor vehicle” is repetitive since the description is information specified in sub. (3) (c). If only the description to the motor vehicle is required, the reference to sub. (3) (c) should be deleted because it does not further explain what a description of a motor vehicle should include.

Also, “the records” should be inserted before “shall be made available for inspection” in subs. (1) and (2).

ac. In s. Trans 154.12 (3) (a), “the most recent owner-name of dealer, wholesaler” should be changed to “the most recent owner and of the dealer, wholesaler.”

ad. In s. Trans 154.12 (3) (b), is “bid card” a term everyone will understand or should it be defined?

ae. In s. Trans 154.12 (4) (a) 2., a comma should be inserted after “make.”

af. In s. Trans 154.12 (4) (b), should the same requirements as in s. Trans 136.03 (1) (b) and other sections be included, such as no blank horizontal lines and all entries made in ink?

ag. In s. Trans 154.12 (4) (c), “record” should be plural.

ah. In the first sentence of s. Trans 154.13 (1) (g), “granted” would be clearer as “form completed.” Also, “an” should be inserted before “odometer.”

ai. In s. Trans 154.13 (3), it appears that the second instance of “including a nonresident dealer” could be deleted since it is specified earlier in the subsection that a nonresident includes a nonresident dealer.

aj. In s. Trans 154.14 (1), a comma should be inserted after “sub. (2).”

ak. In s. Trans 154.15 (2), “and conditions which determine the notation which shall be printed on the certificate of title” is confusing. It appears this phrase could be deleted.

Also in that subsection, “and” should be inserted between “history” and “shall.”

al. In s. Trans 154.15 (2) (a), “that the odometer reading reflects the actual mileage” should be inserted after “the department receives certification on the odometer disclosure statement.”

am. In s. Trans 154.15 (2) (b), “is not actual” would be clearer as “is not the actual mileage.”

Also in that paragraph, “that the odometer reading does not reflect the actual mileage” should be inserted after “the department receives certification on the odometer disclosure statement.”

an. In s. Trans 154.15 (2) (c), “of the odometer” should be inserted after “mechanical limits.”

ao. Section Trans 154.15 (2) (d) (title) would be clearer as “Not actual mileage and odometer tampering verified.”

In that paragraph, “not actual” would be clearer as “not the actual mileage.”

ap. Section Trans 154.15 (2) (e) (title) would be clearer as “Mileage is unverified.”

The paragraph should begin with “A notation indicating that the mileage is not the actual mileage in addition to being unverified...” to be consistent with pars. (a) to (d).

In that paragraph, “in addition to being” would be clearer as “and that the mileage is.”

aq. In s. Trans 154.15 (2) (f), “odometer date” would be clearer as “the date of the odometer reading.”

Also in that paragraph, should “associated legend” be defined or further explained?

ar. In s. Trans 154.15 (3), the first use of “a printed” could be replaced with “the” and “in conjunction with” could be replaced with “of.”

In that subsection, “printed” in the second sentence could be deleted and “on the title” could be inserted after “date.” Also in that sentence, “such printed date” could be deleted.

In that subsection, “does not follow the ‘date of statement’ by more than 60 days” is awkward. Perhaps, “is not more than 60 days after the ‘date of statement’” would be clearer.

Also in that subsection, the third sentence appears to repeat the second sentence in s. Trans 154.15 (1). If so, it could be deleted.